



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCC/147353

PRELIMINARY RECITALS

Pursuant to a petition filed February 18, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on April 18, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's BadgerCare Core Plan (BCP) benefits effective February 1, 2013 due to being over the income limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County and has been receiving BCP benefits.
2. The total gross monthly household income for petitioner is \$3148.

3. On February 12, 2013 the agency issued a notice of decision to petitioner stating that it was terminating her BCP for being over the program's income limit.

DISCUSSION

The BadgerCare Plus (BCP) Core Plan is a Wisconsin variant on MA for adults without dependent children, which provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. In order to qualify financially, participants must have gross income below 200% of the Federal Poverty Level (FPL) for its household size. See §43.7.2, *BadgerCare Eligibility Handbook (BCEH)* online at <http://www.emhandbooks.wi.gov/bcplus/>; see also Wis. Stat. §49.45(23). At the time of the action here, 200% of the FPL for a two person household was \$2,585. *BCEH*, §50.1.

The petitioner did not contest that their gross household income was counted accurately and that it was over 200% of FPL. Rather, she wanted the benefit to continue because her income fluctuates with her employer/school schedule. Unfortunately for petitioner, the program does not allow for that. Once a member goes over the 200%, they are disenrolled. Petitioner is free to reapply for benefits should her household income decrease.

Based on the foregoing, I must find that the agency has correctly counted the income and terminated the benefit.

I add, assuming petitioner feels that this is not a *fair* determination, that I do not have equitable powers and cannot deviate from what law and policy dictate. See *Oneida County v. Converse*, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993).

CONCLUSIONS OF LAW

The agency correctly terminated petitioner's BadgerCare Core Plan (BCP) benefits effective February 1, 2013 due to being over the income limit.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

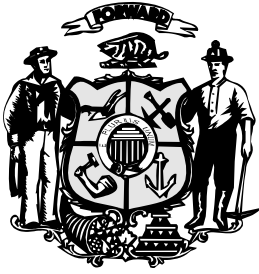
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of April, 2013

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 30, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability